



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.7.2004
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2004/0183 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

introducing humane trapping standards for certain animal species

(presented by the Commission)

EXPLANATORY MEMORANDUM

IMPLEMENTATION OF THE COMMITMENTS AND OBLIGATIONS ARISING FROM THE AGREEMENT

1. INTRODUCTION

In 1998, the Community decided to conclude two international agreements for the purpose of establishing humane trapping standards at an international level.

The first agreement was concluded with Canada and the Russian Federation and was approved by Council Decision 98/142/EC of 26 January 1998¹ (hereinafter: the Agreement).

The second one concerns the United States of America and has the form of an agreed minute. This was approved by Council Decision 98/487/EC of 13 July 1998².

At present, the commitments and obligations arising from these engagements have to be implemented by the Community.

For reasons of clarity references will hereinafter only be made to the Agreement as it is the most detailed act. Nevertheless, the agreement with the USA is substantially similar to the one concluded with the Russian Federation and Canada.

The Agreement has been inspired by the desire to agree on international humane trapping standards as well as to avoid trade disputes with the main international fur exporters.

The Agreement has been applied provisionally between the Community and Canada since June 1999, pending its entry into force which requires ratification by the Russian Federation.

2. THE AGREEMENT

The Agreement on international humane trapping standards consists of 17 Articles and 4 Annexes. The objectives of the Agreement are to establish standards on humane trapping methods, to improve communication and co-operation between the Parties for the implementation and development of these standards and facilitate trade of furs and traps between the Parties. The aim of the humane trapping standards is to ensure a sufficient level of welfare of trapped animals, and to further improve this welfare.

With regard to the present proposal, the following observations can be made concerning the Agreement.

¹ Council Decision 98/142/EC of 26 January 1998 concerning the conclusion of an Agreement on international humane trapping standards between the European Community, Canada and the Russian Federation and of an Agreed Minute between Canada and the European Community concerning the signing of the said Agreement (OJ L 42, 14.2.1998, p. 40).

² Council Decision 98/487/EC of 13 July 1998 concerning the conclusion of an International Agreement in the form of an Agreed Minute between the European Community and the United States of America on humane trapping standards (OJ L 219, 7.8.1998, p. 24).

According to the Agreement, the Parties are obliged to prohibit within the agreed timetable the use of all restraining and killing traps which do not meet the humane trapping standards for the 19³ animal species⁴ listed in the Annex I of the Agreement.

Therefore the trapping methods used must be tested according to the specified standards to ensure a sufficient level of welfare of trapped animals. Consequently appropriate processes for certifying tested traps must be established. The Agreement applies to all killing and restraining mechanical capturing devices (traps) used for the trapping of the 19 wild terrestrial or semi-aquatic mammals listed for the purpose of wildlife management including pest control, obtaining fur, skin or meat and for the capture of mammals for conservation.

The key obligations for the Parties are laid down in Article 7 of the Agreement. This Article requires that appropriate processes for certifying traps in accordance with the standards are established and the competent authorities ensure that the trapping methods used in their territories are in accordance with the standards. The agreed timetable in Annex I indicates the deadlines by which these obligations must be met. Accordingly, the Parties must ensure that trapping methods for restraining animals are tested to demonstrate their conformity with the humane trapping standards and certified within three to five years after the entry into force of the Agreement, depending on the testing priorities and availability of testing facilities. For trapping methods designed to kill, the deadline is five years after the entry into force of the Agreement. The use of uncertified traps must be prohibited within three years after the end of the above periods.

The Parties to the Agreement must promote research on the ongoing development of the Standards and re-evaluate and update Annex I to the Agreement. The Agreement obliges the Parties to improve scientific knowledge for evaluating the welfare of trapped animals (e.g. particular measurements to be studied). Accordingly, each Party must promote further research for the following species: *Ondatra zibethicus* (muskrat)-European Community, *Procyon lotor*-Canada, *Martes zibellina*- Russian Federation. The Commission has fulfilled this obligation by commissioning a study on muskrats. The final report was submitted in June 2003 and provides information on the assessment of the behaviour and physiological parameters (e.g. heart rate) of trapped muskrats.

The four Annexes to the Agreement contain the humane trapping standards, the list of animal species concerned, the implementation schedule, guidelines for the testing of traps and for research on the ongoing development of trapping methods, research programmes to improve the scope of the standards, provisions for an arbitration body and the declarations of Parties.

³ During the negotiations the number of animals figuring in Annex I, part 2, of the Agreement was extended from 13 to 19 species at the request of the other Parties who wished that a larger number of European species was included.

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<i>Canis latrans</i> , Coyote	<i>Martes Americana</i> , Marten
<i>Felix rufus</i> , Bobcat	
<i>Martes pennant</i> , Fischer	<i>Ondatra zibethicus</i> , Muskrat
<i>Procyon lotor</i> , Raccoon	<i>Martes zibellina</i> , Sable
<i>Mustela erminea</i> , Ermine	<i>Lynx lynx</i> , Lynx E
<i>Lynx canadensis</i> , Lynx NA	<i>Meles meles</i> , Badger E
<i>Taxidea taxus</i> , Badger NA	<i>Canis lupus</i> , Wolf
<i>Nyctereutes procyonoides</i> , Raccoon dog	<i>Castor fiber</i> , Beaver E
<i>Castor canadensis</i> , Beaver NA	<i>Lutra lutra</i> , Otter E
<i>Lutra canadensis</i> , Otter NA	<i>Martes martes</i> , Pine marten

The “Declaration by the European Community” states that the Community “will not take any measure implementing Council Regulation (EEC) No 3254/91 during the time reasonably needed for the other Parties to ratify the Agreement and, after ratification, as long as the Agreement remains in force and is applied according to its provisions”.

A study⁵ was carried out on behalf of the Commission on how the obligations of the Agreement are already implemented through existing legislation in the Member States. According to the information received, animals are usually trapped in the Member States for reasons of pest control or because they destroy crops, damage property, carry diseases, threaten game or cause flooding. In 4 Member States some species are also occasionally trapped for their fur. Generally speaking the Member States have not yet adjusted their legislation to implement the Agreement. The existing national legislation varies from Member State to Member State in relation to trapping at national and/or regional level. A harmonisation of legislation is therefore necessary so that the Community will be able to fulfil its international obligations under the Agreement.

Stakeholders, experts and NGO’s have been consulted. Their opinions concerning amongst others the testing of trapping methods and the certification procedure have been taken into account in this proposal. However, it was not considered appropriate to agree to requests for the establishment of centralised Community testing facilities or Community funding of trap testing.

3. RELATION BETWEEN EXISTING LEGISLATION AND DRAFT DIRECTIVE

In the Community, the use of all leghold traps is prohibited by Council Regulation (EEC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards⁶. This prohibition is to be found in its Article 2.

Moreover, Article 3(1) of that Regulation prohibits the importations into the Community of pelts and manufactured goods of 13 specifically mentioned wild animal species. Such importations are, however, permitted from third countries that, in their legislation or administrative provisions, prohibit the use of leghold traps and from third countries that, with regard to these 13 animal species, impose the application of internationally agreed humane trapping standards.

The Agreement (in particular Article 5) permits the Community to maintain this general prohibition. Thus, even after adoption of the new Directive, the use of all leghold traps, even those that are in conformity with the humane trapping standards, will remain prohibited within the Community.

⁵ ‘Evaluation of the situation in the Member States’ as a technical support for the preparation of the implementation of the Agreement’ done by FACE (Federation of Associations for Hunting and Conservation of the EU) in 1999-2000.

⁶ Council Regulation (EEC) No 3254/91, OJ L 308, 9.11.1991, p. 1.

In practice, the new Directive will therefore only apply to traps other than leghold traps that producers want to be considered as “humane”. Moreover, with regard to other animal species than the 19 mentioned in the Annexes to the Agreement, the use of traps, other than leghold traps, that do not comply with the humane trapping standards will remain possible, if they are in conformity with other Community legislation.

The proposal implements the environmental part of the Agreement and is limited in scope and content to what is necessary to ensure that the European Community meets its international obligations by ensuring that the agreed humane trapping standards are respected.

The proposal does not intend to harmonise all technical requirements in relation to the marketing or the placing on the market of traps. The proposal only intends to ban the use of “inhumane” traps used for catching animals belonging to the listed species.

The trade related parts of the Agreement concerning the promotion of international trade in fur products made from furs coming from trapped animals belonging to the species covered by the Agreement will be assured by an amendment to the Annex to Regulation (EEC) N°3254/91 whereby the number of wild animal species covered will be extended from 13 to 19.

4. THE DRAFT DIRECTIVE

Legal Basis and Recitals

It is proposed to implement the Agreement via a directive. This approach is in line with the proportionality principle. It provides for the necessary flexibility to accommodate different situations and enable existing national and regional provisions in the Member States to be adjusted more readily. Moreover, most obligations in the Agreement are drafted in a flexible way and are more suitable for inclusion in a directive than in a regulation.

Article 175 has been chosen as the legal base for this proposal on the grounds that the Directive aims to play an essential role in the protection and conservation of species of wild fauna by providing a sufficient level of protection of the welfare of trapped animals. The purpose of the proposal at issue is to implement within the Community internationally agreed humane trapping standards in order to contribute to, promote and increase animal welfare and species protection through avoiding unnecessary distress and pain to the trapped animal.

The purpose of this Directive is not to deprive Member States of the power to maintain or and adopt more stringent measures concerning trapping and hunting, in the future. As an example, Member States could be willing to apply the humane trapping standards to other animal species than the 19 mentioned.

Therefore, Article 175 constitutes the appropriate legal basis since it allows Member States to adopt stricter rules on the basis of Article 176 on the condition that such rules are compatible with the Treaty and, more in particular, with its rules concerning the free movement of goods.

Enacting part

Article 1 of the proposal concerns the subject matter and scope. Accordingly, the Directive establishes humane trapping standards, requirements for trapping methods, technical provisions for the testing of trapping methods and the certification of traps for trapping certain wild animal species and concerns traps used for the trapping of the wild mammals listed in Annex I for the purposes of wildlife management, pest control, capture of mammals for conservation and obtaining fur, skin or meat.

Article 2 of the proposal defines the relevant terms used in the enacting part.

Article 3 of the proposal requires Member States to designate competent authorities for the purpose of implementation of the Directive.

Article 4 of the proposal sets out the conditions for the general use of traps. After the date of 1 January 2009 only certified traps may be put into use to trap the 19 animal species listed. Moreover, it establishes the principle that the use of traps certified in third countries will be allowed in the Community.

Article 5 imposes upon the Member States to ensure that, as from 1 January 2012, no trapping methods are used that are not in conformity with the humane trapping standards. In its paragraphs 2 and 3 the criteria for humane restraining and killing trapping methods are specified.

In Article 6 the derogations to the general obligations in Articles 4(1) and 5 are regrouped. Thus, derogations may be granted on a case-by-case basis for defined purposes such as the interests of public health and safety; protection of public and private property; research, education, repopulation, reintroduction, breeding and the protection of fauna and flora, as well as to allow the use of traditional wooden traps essential for preserving cultural heritage of indigenous communities. Also, the use of a trap can be admitted on a temporary basis while awaiting the results of research into replacement traps. Finally, Member States may allow individuals to construct and use traps which comply with designs approved by the competent authorities. These traps constructed by individuals are meant to be simple home-made traps for private use. Consequently, as the certification system and all the testing requirements for an industrial manufacturer cannot be applied for practical reasons, if a Member State wants to allow the use of such traps, the competent authority will have to approve the general design of those traps and to make the appropriate disposition within the framework of its enforcement system. It is not possible at this stage to define the appropriate design for all home-made traps. However, the competent authority should check these traps against the established humane trapping standards without going formally through the testing and certification procedures.

Article 7 of the proposal deals with certification of traps where the traps and the trapping methods have been tested to demonstrate their conformity with the humane trapping standards. This means that Member States shall ensure that only traps and trapping methods that have been tested and demonstrate their conformity with the humane trapping standards are certified. For these traps, the competent authorities of the Member States have the responsibility to deliver a standard certification document, as appropriate, containing specific conditions and restrictions regarding the use of the traps concerned.

As a standard certification document will contribute to a better harmonisation of procedures concerning certification and facilitate mutual recognition, a standard certification document will be elaborated on the basis of Article 14.

Article 8 of the proposal requires Member States to ensure that trappers are competent and have proper knowledge or receive training.

Article 9 of the proposal dealing with manufacturers provides that Member States must require manufacturers to identify certified traps and provide instructions for their appropriate setting, safe operation and maintenance.

Article 10 of the proposal requires that Member States promote and encourage research in relation to improvement and extension of the humane trapping standards with the aim to improve the welfare of the trapped animals. This does not take away the responsibility of the Commission to also encourage such research.

Article 11 of the proposal contains a standard penalty provision.

Article 12 of the proposal requires communication of information between the Commission and the Member States. Member States must also ensure that the necessary steps are taken to make the public aware of the measures pursuant to the Directive.

Article 13 of the proposal indicates that the Commission should be assisted by the Committee established by Article 18 of Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating the trade therein⁷, acting in a regulatory capacity. Its purpose is to assist in the implementation of the Directive and to agree on technical amendments to the Annexes of the Directive. It is proposed that scientific and technical information in relation to the standards and testing in the Annexes should be reviewed by the Committee. The Committee is also expected to give opinions on certification and research to improve the standards. It shall also assist in the preparation of the meetings of the Joint Management Committee of the Agreement.

Article 14 of the proposal outlines implementing measures and amendments requiring the Commission in accordance with the Committee procedure to lay down conditions and criteria for notifications, communication of information and for the drawing up of a standard certification document. Moreover, it is provided that, where necessary, the Commission shall amend the Annexes to the Directive in accordance with the Committee procedure.

Article 15 of the proposal establishes that Member States may maintain and apply more stringent provisions.

Article 16 of the proposal contains provisions for transposition. It sets out the deadline, which is 31 December 2005.

Article 17 of the proposal contains the entry in force provision.

Article 18 of the proposal states contains the standard clause concerning addressees.

⁷ OJ L 61, 3.3.1997, p. 1.

The 4 Annexes to the proposal contain the list of animal species concerned (Annex I), the humane trapping standards (Annex II), technical provisions for the testing of trapping methods (Annex III) and research related details (Annex IV).

5. IMPACTS

With regard to the impact assessment process, the Commission during the adoption of its legislative and work programme for 2003, in November 2002, decided not to include this proposal in the list of proposals having to undergo an extended impact assessment. It should furthermore be noted that the impact assessment is generally used as a tool to improve the quality and coherence of the policy development process. However, in this case, the Council has already concluded the Agreement and accepted the proposed policy. Taking into account the above-mentioned points, no specific impact assessment was made.

This Directive has no financial consequences for the budget of the Community. However, economic impacts arise from the demands of the Agreement on testing and certification of the traps. Moreover, the cost of the replacement of traps that are not certified could also be an important element. There are inherent difficulties predicting costs, as the cost will vary depending on the target species. For example field-testing of a trap method for a common species is less time consuming, and thus less costly, than for a more trap-shy species. The rough estimate is that the testing of one trapping method according to the standards for one animal species could cost between 30.000-100.000 Euro depending on the trap type and the type and nature of the animal species concerned.

Given the relatively modest costs it is proposed to leave the allocation of costs to the Member States. Concerning cost allocation there are a variety of options for the Member States, each with advantages and disadvantages. Trap manufacturers, Member States and trap users could pay the costs. Requiring manufacturers to pay is likely to limit the range of traps submitted for testing to widely used traps where manufacturers can be reasonably sure of recovering costs. They could be less humane than other newly developed traps. As a result, it is possible that there would be no certified traps for certain species and an improvement of traps towards the most humane traps could not be guaranteed. If trapping can not take place, other means such as poisoning could be used for pest control which causes suffering to the animals and can have negative effects on the environment. Further possible impacts as a result of non-trapping could result in the loss of biodiversity and damage caused by floods (muskrat control). The proposal leaves enough flexibility with respect to the testing of trapping methods and certification of traps to avoid such potentially negative impacts. However, it may be necessary to review funding mechanisms in the light of the experience with the implementation of the Directive.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

introducing humane trapping standards for certain animal species

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission⁸,

Having regard to the opinion of the European Economic and Social Committee⁹,

Having regard to the opinion of the Committee of the Regions¹⁰,

Acting in accordance with the procedure laid down in Article 251 of the Treaty¹¹,

Whereas:

- (1) In 1998 two agreements on international humane trapping standards were approved by the Community through Council Decision 98/142/EC of 26 January 1998 concerning the conclusion of an Agreement on international humane trapping standards between the European Community, Canada and the Russian Federation and of an Agreed Minute between Canada and the European Community concerning the signing of the said Agreement¹², and Council Decision 98/487/EC of 13 July 1998 concerning the conclusion of an International Agreement in the form of an Agreed Minute between the European Community and the United States of America on humane trapping standards¹³. The commitments and obligations arising from those Agreements should therefore be implemented.
- (2) The Agreements not only aim at ensuring that the international humane trapping standards are respected with regard to the technical characteristics of traps, but also that the methods used for the trapping of the nineteen concerned species comply with these humane trapping standards. Moreover, the humane trapping standards impose specific training for trappers.

⁸ OJ C [...], [...], p. [...].

⁹ OJ C [...], [...], p. [...].

¹⁰ OJ C [...], [...], p. [...].

¹¹ OJ C [...], [...], p. [...].

¹² OJ L 42, 14.2.1998, p. 40.

¹³ OJ L 219, 7.8.1998, p. 24.

- (3) As humane traps have to be selective, efficient and in compliance with the relevant requirements for human safety, the application of these internationally agreed humane trapping standards will have a positive effect on the welfare of the trapped animals contributing to the protection of species of wild fauna both within and outside the Community. Ensuring a sufficient level of welfare of wild animals when trapped for wildlife management purposes and for the capture of those mammals for conservation should contribute to implementing the objectives of the Community's environment policy. More in particular, by so doing, the Community will contribute to a prudent, sustainable and rational utilisation of natural resources and promote measures at international level to deal with world-wide environmental problems.
- (4) The effective application of humane trapping methods implies that traps must not only be certified as being in compliance with the humane trapping standards, but also, in accordance with these standards, be handled by trappers qualified to trap.
- (5) Certification of traps should rely on prior testing. Testing and certification need not to be done by the same body or within the same State provided that both operations comply with the requirements of this Directive. Certified traps should be easily identifiable and information for their use in accordance with humane trapping standards should be made available. Conversely, the use of not certified traps should not be possible, except when expressly authorised in the general interest, on the expiry of a sufficient period of time enabling testing and certification to take place.
- (6) Research to improve humane trapping standards should be encouraged and promoted.
- (7) This Directive is without prejudice to more stringent Community legislation, and in particular Council Regulation (EEC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards¹⁴. Thus all use of leghold traps will remain prohibited within the Community.
- (8) This Directive is also without prejudice to Articles 12 and 15 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora¹⁵.
- (9) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of this Directive to lay down rules implementing the obligations of the Community under the Agreements on international humane trapping standards as set out in Decisions 98/142/EC and 98/487/EC. This Directive does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with the third paragraph of Article 5 of the Treaty.

¹⁴ Council Regulation (EEC) No 3254/91, OJ L 308, 9.11.1991, p. 1.

¹⁵ OJ L 206, 22.7.1992, p. 7. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council, (OJ L 284, 31.10.2003, p. 1).

- (10) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁶,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

1. This Directive establishes humane trapping standards, requirements for trapping methods, technical provisions for the testing of trapping methods and the certification of traps for trapping certain wild animal species.
2. This Directive concerns traps used for the trapping of the wild mammals listed in Annex I for the purposes of wildlife management, pest control, capture of mammals for conservation and obtaining fur, skin or meat.

Article 2

Definitions

For the purpose of this Directive the following definitions shall apply:

1. 'Traps' means mechanical capturing devices designed for killing or restraining animals of the species set out in Annex I;
2. 'Trapping methods' means traps and their setting conditions, such as target species, positioning, lure, bait and natural environmental conditions;
3. 'Restraining trapping methods' means traps designed and set with the intention of not killing a trapped animal, but restraining its movements to such an extent that a human can make direct contact with it;
4. 'Killing trapping methods' means traps designed and set with the intention of killing a trapped animal;
5. 'Trapper' means a person who is authorised by the competent authority of a Member State to use traps for trapping the animal species listed in Annex I;

Article 3

Competent authorities

1. Each Member State shall designate one or more competent authorities responsible for the implementation of this Directive.

¹⁶ OJL 184, 17.7.1999, p. 23

2. Member States shall inform the Commission of the names and addresses of the competent authorities by 31 December 2005 at the latest. The Commission shall inform the other Member States thereof and publish a list of the competent authorities in the *Official Journal of the European Union*. The same procedure shall apply to any changes to the list of competent authorities.

Article 4

Use of traps

1. As from 1 January 2009, Member States shall ensure that traps to be put into use are in conformity with the humane trapping standards set out in Annex II and certified as such by the competent authorities.
2. Member States may permit within their territories the use of traps certified in a third country in accordance with the humane trapping standards. Member States shall state the reasons for any refusal to do so and notify in writing the third country of certification and the Commission.

Article 5

Trapping methods

1. As from 1 January 2012, Member States shall ensure that only trapping methods are used that are in accordance with the humane trapping standards set out in Annex II.
2. A restraining trapping method shall be considered humane if the following conditions are fulfilled:
 - (a) the number of specimens of the same target species from which the data are derived is at least 20;
 - (b) at least 80 % of the animals referred to in point (a) show none of the indicators listed in point 2.2 of Annex II.
3. A killing trapping method shall be considered humane if the following conditions are fulfilled:
 - (a) the number of specimens of the same target species from which the data is derived is at least 12;
 - (b) at least 80 % of the animals referred to in point (a) are unconscious and insensible within the time limits set out in point 3.2 of Annex II, and remain in this state until death.

Article 6

Derogations

1. Provided that they are not applied in a manner that would undermine the aim of this Directive, derogations from the obligations in Article 4(1) and Article 5 may be granted by the competent authorities, on a case by case basis, for the following purposes:
 - (a) the interests of public health and safety;
 - (b) protection of public and private property;
 - (c) research, education, repopulation, reintroduction, breeding or for the protection of fauna and flora;
 - (d) using traditional wooden traps essential for preserving cultural heritage of indigenous communities;
 - (e) using of a particular trap for specific species or under specific environmental conditions on a temporary basis for a reasonable time defined by the competent authorities while research continues to identify replacement traps;
 - (f) allowing, on a case by case basis, individuals to construct and use traps which comply with designs approved by the competent authorities.
2. A derogation granted in accordance with paragraph 1 shall be accompanied by written reasons and any conditions applicable to it.
3. The competent authority shall notify the Commission of any derogation granted and the written reasons and conditions relating thereto.

Article 7

Certification

1. Where traps and their trapping methods have been tested and demonstrate their conformity with the humane trapping standards, Member States shall ensure that the competent authority certifies such traps.
2. Member States shall ensure that a standard certification document is delivered in respect of any traps, the use of which has been permitted under Article 4(1).
3. Without prejudice to national prohibitions relating to the use of traps, a standard certification document delivered by the competent authority of another Member State in accordance with this Directive shall be recognised as a valid certificate in the other Member States.
4. The competent authority shall indicate on the standard certification document, as appropriate, any specific conditions and restrictions for the use of the trap.

5. Before certifying a trap the competent authority shall ensure that the entity or body responsible for the testing has applied the technical provisions for the testing of trapping methods set out in Annex III and has provided the competent authority with a report in accordance with point 1.6 of that Annex.

Article 8

Trappers

Member States shall ensure that trappers receive specific training or have equivalent practical experience, competence and knowledge qualifying them to trap according to the humane trapping standards.

Article 9

Manufacturers

Member States shall require manufacturers to identify certified traps and provide instructions for their appropriate setting, safe operation and maintenance.

Article 10

Research

Member States shall promote and encourage research contributing towards improvement of the humane trapping standards and of the welfare of the trapped animal in accordance with the provisions in Annex IV.

Article 11

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the date specified in Article 16(1) at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 12

Communication of information

1. Member States and the Commission shall communicate to one another the information necessary for implementing this Directive.
2. Member States shall ensure that the necessary steps are taken to make the public aware of the measures adopted pursuant to this Directive

Article 13

Committee

1. The Commission shall be assisted by the Committee established by Article 18 of Council Regulation (EC) No 338/97¹⁷ (hereinafter referred to as "the Committee").
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

Article 14

Implementing measures and amendments

1. Acting in accordance with the procedure referred to in Article 13(2), the Commission shall lay down uniform conditions and criteria for:
 - (a) the notifications referred to in Article 4(2) and 6(1);
 - (b) the communication of information referred to in Article 12;
 - (c) the drawing up of a standard certification document for the purpose of Article 7.

The Commission shall, where necessary, and in accordance with the procedure referred to in Article 13(2), adopt additional implementing measures.

2. Whenever the Annexes to the Agreement and Agreed minutes referred to in Decision 98/142/EC and 98/487/EC are amended, the Commission shall in accordance with the procedure referred to in Article 13(2) amend the Annexes to this Directive accordingly.

Article 15

Relationship with national law

Member States may maintain or introduce more stringent provisions than those laid down in this Directive for the protection of animals and animal species in Annex I. They shall inform the Commission of any such measures.

¹⁷ OJ L 61, 3.3.1997, p. 1.

Article 16

Transposition

1. Member States shall adopt and publish, by 31 December 2005 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 January 2006.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 17

Entry in force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 18

Addressees

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the European Parliament
The President

For the Council
The President

ANNEX I

LIST OF ANIMAL SPECIES

The humane trapping standards apply to the following animal species:

<i>Canis latrans</i>	Coyote	<i>Martes americana</i>	Marten
<i>Martes pennanti</i>	Fischer	<i>Ondatra zibethicus</i>	Muskrat
<i>Procyon lotor</i>	Raccoon	<i>Martes zibellina</i>	Sable
<i>Mustela erminea</i>	Ermine	<i>Lynx lynx</i>	Lynx E
<i>Lynx canadensis</i>	Lynx NA	<i>Meles meles</i>	Badger E
<i>Taxidea taxus</i>	Badger NA	<i>Canis lupus</i>	Wolf
<i>Castor fiber</i>	Beaver E	<i>Castor canadensis</i>	Beaver NA
<i>Lutra lutra</i>	Otter E	<i>Felix rufus</i>	Bobcat
<i>Lutra canadensis</i>	Otter NA	<i>Martes martes</i>	Pine marten
<i>Nyctereutes procyonoides</i>	Raccoon dog		

E = European

NA = North American

ANNEX II

1. THE HUMANE TRAPPING STANDARDS

1.1. Aims

The aim of the Standards is to ensure a sufficient level of welfare of trapped animals, and to further improve this welfare.

Notwithstanding that the trapping methods must meet the requirements of this Directive, consideration should be given to continuing the improvement of the design and setting of traps, in particular to:

- (a) improving the welfare of animals trapped in restraining traps during the period of restraint;
- (b) producing rapid onset of unconsciousness and insensibility of animals trapped in killing traps; and
- (c) minimising the capture of non-target animals.

1.2. Principle

In the evaluation of whether or not a trapping method is humane, the welfare of a trapped animal must be assessed.

1.3. General considerations

Welfare of animals can be indicated by measures of the extent of ease or difficulty in their coping with the environment and the extent of failure to cope with their environment. Since animals vary in the methods that they use to try to cope with their environment, a range of measures should be used when assessing their welfare.

Indications of welfare of trapped animals include those of physiology, injury and behaviour. Since some of these indicators have not been studied for a variety of species, further scientific studies will be necessary to set thresholds under these Standards, as appropriate.

Although welfare can vary widely, the term 'humane' is used only for those trapping methods where the welfare of the animals concerned is maintained at a sufficient level, although it is acknowledged that in certain situations with killing traps there will be a short period of time during which the level of welfare may be poor.

The thresholds established in the Standards for the certification of traps include:

- (a) for restraining traps: the level of indicators beyond which the welfare of trapped animals is considered poor; and
- (b) for killing traps: the time to unconsciousness and insensibility and the maintenance of this state until death of the animal.

2. REQUIREMENTS FOR RESTRAINING TRAPPING METHODS

2.1. Parameters

In the evaluation of whether or not a restraining trapping method meets these Standards the welfare of an animal that is trapped must be assessed.

The parameters must include indicators of behaviour and injury listed in 2.2 of this Annex II.

The magnitude of responses for each of those parameters must be assessed.

2.2. Indicators

The behavioural indicators recognised as indicators of poor welfare in trapped wild animals are:

- (a) self-directed biting leading to severe injury (self-mutilation);
- (b) excessive immobility and unresponsiveness.

Inquiries (injuries) recognised as indicators of poor welfare in trapped wild animals are:

- (a) fracture;
- (b) joint luxation proximal to the carpus or tarsus;
- (c) severance of a tendon or ligament;
- (d) major periosteal abraison;
- (e) severe external haemorrhage or haemorrhage into an internal cavity;
- (f) major skeletal muscle degeneration;
- (g) limb ischaemia;
- (h) fracture of a permanent tooth exposing pulp cavity;
- (i) ocular damage including corneal laceration;
- (j) spinal cord injury;
- (k) severe internal organ damage;
- (l) myocardial degeneration;
- (m) amputation;
- (n) death.

3. REQUIREMENTS FOR KILLING TRAPPING METHODS

3.1. Parameters

The time of occurrence of unconsciousness and insensibility produced by the killing technique must be determined and the maintenance of this state until death must be checked (i.e., until heart function has ceased irreversibly).

Unconsciousness and insensibility must be monitored by checking corneal and palpebral reflexes or any other scientifically proven suitable substitute parameter.

In cases where further tests are necessary to determine if the trapping method meets the standards, additional electroencephalogram (EEG), visual evoked response (VER), and sound evoked response (SER) measurements may be made.

3.2. Indicators and time limits

Time limit to loss of corneal and palpebral reflex	Species
45 seconds	<i>Mustela erminea</i>
120 seconds	<i>Martes americana</i> , <i>Martes zibellina</i> , <i>Martes martes</i>
300 seconds *	All other species listed in Annex I of this Directive

* this time limit will be reviewed with the aim to adapt the time limit requirement on a species-by-species basis, with a view to lowering the 300 seconds time limit to 180 seconds, and to define a time-frame for implementation.

ANNEX III

1. TECHNICAL PROVISIONS FOR THE TESTING OF TRAPPING METHODS

To ensure accuracy and reliability, and to demonstrate that trapping methods fulfil the requirements set out in the Standards studies for testing those trapping methods must follow the general principles of good experimental practices.

In the event that testing procedures are established under the framework of ISO, the International Organisation for Standardisation, and that such procedures are relevant for the assessment of the conformity of trapping methods with some or all the requirements of the Standards, the ISO procedures may be used as appropriate.

1.1. General provisions

Tests must be performed according to comprehensive study protocols.

The functioning of the trap mechanism must be tested.

Testing of traps in the field is to be carried out in particular for the assessment of selectivity. This test can also be used to collect data on capture efficiency and user safety.

Restraining traps must be tested in a compound, in particular to evaluate behaviour and physiological parameters. Killing traps must be tested in a compound, in particular to identify unconsciousness.

In the field tests, traps are to be checked daily.

The effectiveness of the killing traps to render the target animal unconscious and kill it must be tested on conscious, mobile animals, by laboratory or compound and field measurements. The ability of the trap to strike the target animal at vital locations needs to be evaluated.

The order of testing procedures may be varied to ensure the most effective evaluation of the traps to be tested.

Traps may not expose the operator to undue hazard under normal use.

If appropriate, a broader range of measures can be checked when testing traps. Field testing can include studies of the effects of trapping on both target and non-target species.

1.2. Study situation

The trap must be set and used according to the best advice from manufacturers or others on how to do so.

For compound testing, a compound must be used that provides a suitable environment for the animals of the target species to move freely, hide and show most normal behaviour. It must be possible to set traps and monitor trapped animals. If appropriate the trap must be set so that video and sound recording can be made of the whole trapping episode.

For field testing, sites are to be selected that are representative of those that will be used in practice. Since the selectivity of the trap and any possible adverse effects of the trap on non-target species are important reasons for field testing, sites for field testing may need to be chosen in different habitats where different non-target species are likely to be encountered. Pictures of each trap and its set and of the general environment should be taken. The trap identification number should be made a part of the photographic record before and after a strike.

1.3. Study personnel

Test personnel must be appropriately qualified and trained.

Among the test personnel there must be at least one person experienced in the use of the traps, and capable of trapping the animals used in the test and at least one person experienced in each of the methods of welfare assessment for restraining traps and in methods of assessing unconsciousness for killing traps. For example, the assessment of behavioural responses to trapping and of aversiveness must be done in particular by a trained person who is familiar with the interpretation of such data.

1.4. Animals to be used in trap testing

Compound test animals should be in good health and representative of those that are likely to be caught in the wild. The animals used should not have prior trapping experience of the trap being tested.

Prior to the testing of traps, animals must be housed in appropriate conditions and provided with adequate food and water. Animals may not be housed in a manner that might in itself result in poor welfare.

Animals are to be acclimatised to the testing compound prior to the start of the test.

1.5. Observations

Behaviour

Behavioural observations are to be made by a trained person, particularly in reference to the knowledge of the ethology of the species.

Aversiveness can be assessed by trapping the animal in a readily recognised situation, then re-exposing the animal to the trap in the appropriate situation and evaluating its behaviour.

Care should be taken to distinguish responses to additional stimuli from responses to the trap or the situation.

Physiology

Some animals are to be fitted with telemetric recorders (e.g., to record heart rate, respiratory rate) before testing. Such fitting must occur long enough before trapping for the animal to recover from any disturbance caused by having been fitted with such recorders.

All precautions must be taken to limit inadequate or biased observations and parameters, especially those due to human interference when sampling.

When biological sampling (e.g., of blood, urine, saliva) is performed, it must be done at times relevant to the trapping event and the time-dependent considerations of the parameter being evaluated. Control data from animals kept elsewhere in good conditions and for different activities, baseline data before the trapping event occurs, and some reference data after extreme stimulations (e.g., a challenge test with adrenocorticotrophic hormone) can also be collected.

All biological samples must be taken and stored according to the best knowledge to ensure conservation before analysis.

Analytical methods used should be validated.

For killing traps, when neurological examinations using reflexes (such as pain or eyes) are performed in combination with the measurement of an EEG and/or VERs or SERs, they must be done by an expert, to provide relevant information concerning the consciousness of the animal of the effectiveness of the killing technique.

When the animals are not unconscious and insensible within the time described in the test protocol, they must be killed in a humane way.

Injuries and pathology

Each test animal must be carefully examined so as to assess any injury. Radiographic examination should be conducted to confirm possible fractures.

Further detailed pathological examination of dead animals should be carried out. Post-mortem examination should be performed in accordance with accepted veterinary examination practices by an experienced veterinarian.

The affected organs or/and regions are to be examined macroscopically, and histologically if appropriate.

1.6. Report

The study report must contain all relevant information about the experimental design, materials and methods, and results, in particular:

- (a) the technical description of the trap design including construction material;
- (b) manufacturers' instructions for use;
- (c) the description of the test situation;
- (d) weather conditions, in particular temperature and snow depth;
- (e) the test personnel;
- (f) the number of animals and traps tested;
- (g) the total number of captured target and non-target animals of each species, and their relative abundance expressed as rare, common or abundant in that area;
- (h) selectivity;
- (i) details of any evidence that the trap was activated and injured an animal that was not caught;
- (j) behavioural observations;
- (k) values of each physiological parameter measured and methodologies;
- (l) description of injuries and post-mortem examinations;
- (m) time to loss of consciousness and sensibility; and
- (n) statistical analyses.

ANNEX IV

1. RESEARCH

An appropriate range of measures of the welfare of animals that are trapped must be assessed when testing trapping systems. While such measures, in particular additional behavioural and physiological measures, have not been developed and used for a variety of species, their use in these Standards for the species under consideration will have to be verified by scientific studies carried out to determine baseline levels, ranges of response, and other relevant measures.

Objectives

The research promoted and encouraged pursuant to Article 11 must in particular be aimed at the establishment of baselines and reference data necessary to set thresholds for additional parameters, or to evaluate the relevance of other welfare measurement not included in the present scope of Section 2.3 of these Standards, including a number of behavioural and physiological indicators.

Particular measurements to be studied

The parameters to be studied must, in particular, include:

- (a) behavioural responses after trapping, including vocalisations, extreme panic, delay before return to normal behaviour after release from trap and aversiveness. In aversiveness testing, the extent of avoidance or resistance to close approach to the previously experienced trapping situation must be evaluated; and
- (b) physiological parameters, including heart rate and arrhythmia, and biochemical parameters (blood, urine or saliva measures) as appropriate for the species, including glucocorticoid concentrations, prolactin concentrations, creatine kinase activity, lactate dehydrogenase (and possibly iso-enzyme 5) and Beta Endorphin levels (if assays exist).

The magnitude of response of the physiological parameters will refer to basal and extreme levels and time dependency.

Basal level means the quantity, concentration or rate for that physiological variable when the animal is not disturbed by the environmental conditions. For physiological variables that change over periods of a few seconds or minutes, this basal level should refer to a particular activity, for example lying, standing, walking or running and jumping. Extreme level means close to the maximum or minimum level for such animals. The physiological responses referred to above are likely to be shown by all mammals, but exact basal and extreme levels and the pattern of change between these must be determined for each species tested.

The aspects of measures of physiological responses that indicate poor welfare are whether the measured level is far from the normal level and whether the duration of that altered level is significant.

In cases where further tests are necessary to determine if the trapping method meets the standards, additional electroencephalogram (EEG), visual evoked response (VER), and sound evoked response (SER) measurements may be made.)